

## **DETAILED ACTION**

### **Status of Action**

Receipt of Amendments/Remarks (filed on 05/17/2010) and Supplemental Amendment (filed on 05/27/2011) are acknowledged.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Mr. Gavin Milczarek-Desai on 05/26/2011.

- Claim 1, at line 1: insert --(i)-- after the phrase a first compound.
- Claim 1, at line 3: delete " ii) " and insert --(ii)-- after the phrase a second compound.
- Claim 2, at line 1: delete " , dihydroimidazolone, ".
- Claim 3: delete " kresoxim-methyl, metominostrobin, fluoxastrobin, enestroburin, fenamidone and ".
- Claim 4, line 1: delete " furalaxyl, ".

- Claim 6, at line 1: delete "(ii)", and insert --(ii)-- after the phrase wherein the second composition.
- Claim 7 is cancelled.
- Claim 8 is rewritten as follows: -- A process to control or prevent a fungal attack in roots, seeds or foliage of plants, wherein said process comprising applying to a locus of the fungus or the plant a fungicidal amount of a synergistic composition according to claim 1 or claim 6. --

### **Reasons for Allowance**

Accordingly, claims 1-6 and 8 of the instant application are allowed.

The following is an examiner's statement of reasons for allowance:

Claims 1-5 are drawn to a synergistic composition comprising a combination of a first compound (i) and a second compound (ii), as recited therein.

Claim 6 is drawn to the synergistic composition of claim 1, wherein the second compound (ii) is the compound of formula (II) recited therein (also known as zoxamide), and wherein the synergistic composition additionally comprises mancozeb, cymoxanil, dimethomorph, copper oxychloride, fosetyl-A1, folpet, or mefenoxam.

Claim 8 is drawn to a process to control or prevent a fungal attack in roots, seeds or foliage of plants, wherein said process comprising applying to a locus of the fungus or the plant a fungicidal amount of a synergistic composition according to claim 1 or claim 6. (Support for the present method disclosed in page 11, [0036]).

The closest references Ricks teaches a fungicidal composition comprising the instant first compound (i), and Gayer teaches a fungicidal composition comprising the second compounds (ii). The instant invention is unobvious over Ricks and Gayer because when the instant first and second compounds are used in combination, they unexpectedly give synergistic fungicidal effects compared to the fungicidal effects when the first compound and the second compound each is used alone (see the Specification: page 13-49, Tables 1-86; and Supplemental Amendment filed on 05/27/2011 for Table 44 and 80).

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### **Contact Information**

Any inquiry concerning this communication from the Examiner should direct to Helen Mei-Ping Chui whose telephone number is 571-272-9078. The examiner can normally be reached on Monday-Thursday (7:30 am–5:00 pm). If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor Johann Richter can be reached on 571-272-0646. The fax phone number for the organization where the application or proceeding is assigned is 571-273-8300.

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/H. C./

Examiner, Art Unit 1616

**/Johann R. Richter/**

**Supervisory Patent Examiner, Art Unit 1616**